

Tab 8

Fran M. Morrison, R.N. HIGHLY CONFIDENTIAL  
New York, NY

July 27, 2005

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IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF MASSACHUSETTS

In Re: PHARMACEUTICAL INDUSTRY	MDL DOCKET NO.
AVERAGE WHOLESALE PRICE	CIVIL ACTION
LITIGATION	01CV12257-PBS

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ALL ACTIONS

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Wednesday, July 27, 2005

8:00 a.m.

HIGHLY CONFIDENTIAL DEPOSITION of FRAN M.  
MORRISON, R.N., held at the offices of 875 Third  
Avenue, New York, New York, a Certified Shorthand  
(Stenotype) Reporter and Notary Public within and  
for the State of New York.

Henderson Legal Services  
(202) 220-4158

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<p style="text-align: right;">94</p> <p>1 A If they did, I only ever heard it</p> <p>2 referred to as margin, that I recall, margin.</p> <p>3 Q What is your understanding of the</p> <p>4 term "margin"?</p> <p>5 A The difference between what you</p> <p>6 paid for the drug and what you are reimbursed for</p> <p>7 the drug. That's my understanding.</p> <p>8 Q Same question with regard to the</p> <p>9 doctors you worked with at Beaumont, would the</p> <p>10 concept of margin ever come up in any of the</p> <p>11 questions they would raise with you about any of</p> <p>12 your drugs?</p> <p>13 A It might have. I don't recall</p> <p>14 specific instances.</p> <p>15 Q What about margin, that concept,</p> <p>16 coming up with any of the office staff at Corpus</p> <p>17 Christi Cancer Center?</p> <p>18 A Did it come up?</p> <p>19 Q Yes.</p> <p>20 A It might have.</p> <p>21 Q Do you recall any specific</p> <p>22 instances?</p>	<p style="text-align: right;">96</p> <p>1 keep their doors open, it didn't surprise you</p> <p>2 when the issue of reimbursement would come up in</p> <p>3 the early days?</p> <p>4 A It didn't surprise me. It's</p> <p>5 questions they have, and I need to answer those</p> <p>6 as best I can. But I don't need to sell that.</p> <p>7 Q And still looking back at the</p> <p>8 early days of your career, how is it that you</p> <p>9 arrived at that philosophy?</p> <p>10 A Probably from being an oncology</p> <p>11 nurse. You have patients diagnosed with</p> <p>12 catastrophic illness. You want to help them. I</p> <p>13 saw a lot of patients die. It should not be</p> <p>14 based on what you're going to get back, but it</p> <p>15 should be based on what's best for the patient.</p> <p>16 Q Did anything else go into that</p> <p>17 philosophy? For example, did anyone in your</p> <p>18 training that we have discussed, either your home</p> <p>19 training or the two weeks you spent in Princeton,</p> <p>20 did anyone from BMS ever instruct you that you</p> <p>21 should never be focusing on reimbursement issues</p> <p>22 when you made your sales calls?</p>
<p style="text-align: right;">95</p> <p>1 A No.</p> <p>2 Q Just trying to jog your memory in</p> <p>3 terms of any time it may have come up. Do you</p> <p>4 recall if it would have come up in the context of</p> <p>5 someone asking you what the margin was for a</p> <p>6 particular drug at any particular time?</p> <p>7 A They may have, but I don't</p> <p>8 remember specific incidents. That's not</p> <p>9 something I talked about. If they asked me a</p> <p>10 question, I would try to answer the question.</p> <p>11 Q Why is that not something you</p> <p>12 talked about?</p> <p>13 A I promote and still promote drugs</p> <p>14 based on the science and clinical data. That's</p> <p>15 what's important, what's going to help patients,</p> <p>16 what's going to make a difference for some cancer</p> <p>17 patient. If I need to answer questions regarding</p> <p>18 the margin, obviously reimbursement in general is</p> <p>19 important, then I'll answer those. But the most</p> <p>20 important thing is the science, the clinical</p> <p>21 data, and what's going to help your patient.</p> <p>22 Q But given that doctors do need to</p>	<p style="text-align: right;">97</p> <p>1 A I can't say anyone instructed us.</p> <p>2 We've always -- I've always felt and it's always</p> <p>3 been presented, and this is my response to what I</p> <p>4 have gotten from Bristol, is that we do well by</p> <p>5 doing good. I've heard that phrase a number of</p> <p>6 times in the organization. Part of my -- on the</p> <p>7 back of my business card, I think it says there,</p> <p>8 To extend and enhance human life is part of what</p> <p>9 we do. To me, that's focusing on the patient and</p> <p>10 what's best for the patient, and that played into</p> <p>11 what I already believed.</p> <p>12 Q Focusing still on your early days</p> <p>13 of your career and explaining your philosophy, is</p> <p>14 it your sense that the other salespeople that you</p> <p>15 had direct contact with at BMS shared that</p> <p>16 philosophy?</p> <p>17 A As far as I know. I don't know</p> <p>18 how they do things when they get out in their</p> <p>19 territory. I don't ride with other reps. I</p> <p>20 don't know. I can't tell -- I can't speak for</p> <p>21 them.</p> <p>22 Q Would you consider it wrong in any</p>



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<p style="text-align: right;">254</p> <p>1 MR. LOPEZ: Let's go on to the 2 next one. This is Exhibit Morrison 009. The 3 court reporter is going to mark that 4 one and hand it to the witness. 5 (Document Bates stamped BMS/AWP/01404191 was marked as 6 Exhibit Morrison 009 for identification, as of this date.) 7 8 MR. LOPEZ: This one is, for 9 reference, BMS/AWP/01404191 10 Q Do you recognize this document? 11 A I do. 12 Q What is it? 13 A Call notes. 14 Q Was this also likely have been 15 generated by ETM? 16 A Yes. 17 Q Who is Charles Tasheema? 18 A One of the physicians in my 19 territory. Actually, I used to work for him. 20 Q Would you read that first sentence 21 out loud? 22 A "Ask me RE Taxol/carbo." Says.</p>	<p style="text-align: right;">256</p> <p>1 did the doctor give you any further information 2 on what he meant "losing money"? 3 A I don't remember specifically. 4 Usually when a doctor tells me they are losing 5 money on Taxol, that, to me, means they are not 6 getting back what they paid for the drug. They 7 are -- he's not being reimbursed what they paid 8 for the product. That's not really possible. 9 The way reimbursement was at that time, it's not 10 really possible, unless co-pays and not 11 collecting the patient's portion. 12 Q If you would read the final two 13 sentences for us out loud, please. 14 A "Wants me to do the math and show 15 the spread on reimbursement for him. Will 16 follow-up." 17 Q What did you mean, "Wants me to do 18 the math and show the spread on reimbursement for 19 him"? 20 A He wanted me to figure out if they 21 were losing money or not. 22 Q Part of figuring that out was</p>
<p style="text-align: right;">255</p> <p>1 "Jean tells him they are losing money on Taxol 2 and are going to change NCSLC patients back to VP 3 cis." 4 Q You can stop there. What is VP? 5 A Vepesid. 6 Q And cis, Cisplatin? 7 A Yes. 8 Q Who's Jean? 9 A Office manager. 10 Q What did Dr. Tasheema mean when he 11 said, "Jean says losing money"? 12 A Exactly that, was my 13 understanding. Jean said they were losing money 14 on Taxol. 15 Q To the best of your recollection, 16 why was Jean telling the doctor they were losing 17 money on Taxol? 18 A I'm thinking she thought they 19 should change to something else. You can't lose 20 money on a drug and continue to administer it. I 21 can't see how they were losing money on Taxol. 22 Q Did they give you any further --</p>	<p style="text-align: right;">257</p> <p>1 doing math and showing the spread? 2 A That's what he thought. 3 Q What did you mean when you wrote: 4 "Show the spread on reimbursement"? 5 A He wanted me to show him or talk 6 to him, tell him that they were not losing money. 7 Q What did you mean when you wrote: 8 "Show the spread on reimbursement"? 9 A Exactly that. That he would not 10 be losing money on Taxol, that that was not 11 possible. If you collect the co-pay, you collect 12 your reimbursement, what you paid for the drug, 13 you should come out okay. 14 Q Let's drill down further though. 15 What did you mean by the word "spread"? 16 A The margin of difference between 17 what you made for the drug and what you get 18 reimbursed. 19 Q The final sentence says, "Will 20 follow-up"? 21 A Correct. 22 Q Did you do that?</p>



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<p style="text-align: right;">258</p> <p>1 A I'm sure I followed-up with him. 2 I didn't write anything down. 3 Q You specifically recollect not 4 writing anything down? 5 A I don't write numbers down. I 6 don't remember writing any down. I don't have 7 any. 8 Q How did you follow-up with him? 9 A I talked to him. 10 Q Did you talk to him about the 11 spread in the way he wanted you to talk about? 12 A I answered the question, and we 13 discussed it's really hard to lose money on any 14 chemotherapy drug if you are billing correctly 15 and collecting the co-pay. 16 Q Do you recall if answering the 17 question you discussed specifically the numbers 18 that at that time would fit into the slots or 19 acquisition price for the drug versus 20 reimbursement level for the drug? 21 A I would have to know the 22 acquisition price. I don't know I would have</p>	<p style="text-align: right;">260</p> <p>1 work in this office. I had a different practice. 2 They felt a lot freer to ask me a lot of 3 questions than another. I knew the workings. I 4 knew how the practice worked. I knew the office 5 manager. My knowledge of what happened in this 6 office was better than -- I worked in that office 7 for eight years. 8 MR. LOPEZ: Okay. Let's move on 9 to Exhibit Morrison 010. The reporter is 10 marking that and will hand it to the 11 witness. For identification purposes, 12 this one is BMS/AWP/01404200. 13 (Document Bates stamped BMS/AWP/01404200, was marked as 14 Exhibit Morrison 010 for identification, as of this date.) 15 16 Q Do you recognize this document? 17 A I do. 18 Q What is it? 19 A A call note. 20 Q Likely generated with which 21 program? 22 A Most likely ETM.</p>
<p style="text-align: right;">259</p> <p>1 discussed specific numbers. I would have 2 explained to him whatever your acquisition price, 3 if you collect your reimbursement and you collect 4 the patient's part, you should be okay. 5 Q During the course of that specific 6 discussion with him, do you recall then if AWP 7 was part of that discussion? 8 A I don't remember because I 9 wouldn't have needed real numbers to explain it. 10 You don't need real numbers to explain that you 11 pay this much for a drug, you get paid this much 12 for a drug -- sometimes it's really close -- 13 collect the patient's 20 percent, and whatever 14 your co-pay is, you're fine. 15 Q In the course of discussing that, 16 the top number, the reimbursement number there, 17 do you recall if you discussed AWP at all, 18 whether in terms of an actual number or the 19 concept itself? 20 A It would have been the concept, 21 but I don't recall exactly. Can I interject? I 22 would like to explain. This office -- I used to</p>	<p style="text-align: right;">261</p> <p>1 Q Who is Maria Scorez? 2 A The doctor I used to work for. 3 Q Was Maria Scorez affiliated in any 4 way with Dr. Tasheema? 5 A Yes. And she's actually the one 6 who started the practice. It was her practice, 7 and he moved in, associated with her. She had 8 more decision-making power. 9 Q If you could read that first 10 sentence to yourself. 11 What did you mean there when you 12 said, "Changing NSCLC patients to VP/cis from 13 Taxol/carbo based on pricing and 14 reimbursement"? 15 A Exactly what we talked about with 16 Dr. Tasheema, that's what he was telling me 17 about, and it was her decision based on pricing 18 and reimbursement. This practice, in my opinion, 19 having worked there, did not have a good business 20 sense, did not fully understand how reimbursement 21 with working with this and that. You were doing 22 okay to give Taxol/carbo. You could give VP/cis.</p>